

**HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA**

**WRIT APPEAL No. 1072 OF 2016
And
WRIT PETITION No.30118 of 2016**

COMMON JUDGMENT *(Per the Hon'ble the Acting Chief Justice Sri Ramesh Ranganathan)*

By the order under appeal, the learned Single Judge dismissed the writ petition on the ground that the appellants-writ petitioners had suppressed the fact that they had filed O.S.No.52 of 2016 seeking a declaration that their father-Sonule Pandu was the adopted son of late Sonule Sakharam, and for permanent injunction, and that the Suit is pending.

Sri V. Raghunath, learned counsel for the appellants, would submit that the suit in O.S.No.52 of 2016 was filed seeking a declaration that the appellants' father-Sonule Pandu was the adopted son of late Sonule Sakharam; the fact that the appellants are in possession of the subject lands, ever since 1990, is not in dispute; the Tahsildar had sought to put the unofficial respondents in possession by conducting a panchanama; he had also addressed a letter to the police authorities in this regard; and the Tahsildar had erred in seeking to dispossess the appellants without giving them an opportunity of being heard as contemplated under Section 32 (2) and (3) of the A.P (T.A) Tenancy & Agricultural Lands Act, 1950 (for short 'the Act').

Sri V. Ravikiran Rao, learned counsel for the unofficial respondents, would submit that the appellants had deliberately avoided receipt of the notice; the Tahsildar had no other alternative except to conduct a panchanama and put them in possession; not only did the appellants fail to state that they had filed a suit, they

had also failed to state that they had filed an interlocutory application, in the said Suit, seeking temporary injunction; and the learned Single Judge had rightly dismissed the Writ Petition on this ground.

The suit filed by the appellants, in O.S.No.52 of 2016, was for a declaration that their father was the adopted son of late Sonule Sakharam. They also sought an injunction restraining the unofficial respondents from interfering with their possession. Even if it is presumed that the appellants have not established that their father is the adopted son of the original tenant, it is not in dispute that they have been in possession of the subject lands ever since 1990. Irrespective of the result of the Suit filed by them, Section 32(2) and (3) of the Act requires that they should be put on notice, and be given an opportunity of being heard before they are evicted from the subject land. Admittedly, no such opportunity was given to the appellants. Their failure to state, in the Writ affidavit, that they had filed the Suit does not have any bearing on the dispute raised in the present Writ Petition.

While we were initially inclined to set aside the order passed by the learned Single Judge, and remand the matter for his consideration afresh, both Sri V. Raghunath, learned counsel for the appellants and Sri V. Ravi Kiran Rao, learned counsel for the unofficial respondents, would agree that, instead, the Writ Petition itself be disposed of treating the impugned proceedings as a show cause notice, and permitting the appellants to submit their reply thereto within a prescribed time frame.

Learned Government Pleader for Revenue would submit that, since the dispute has been long pending, a minimum of three

months should be stipulated for the Tahsildar to enquire into the matter, and pass orders afresh.

In the light of the aforesaid submissions, we consider it appropriate to set aside the order under appeal, restore the Writ Petition to file, and dispose of the Writ Petition directing that the impugned proceedings be treated as a show cause notice to which the appellants-writ petitioners can submit their objections within two weeks from today. On receipt of such objections, the second respondent shall enquire into the matter, and pass an order afresh in accordance with law at the earliest and, in any event, not later than two months from the date of receipt of the appellants' objections thereto. Needless to state that, in case the appellants fail to submit their objections within the time stipulated hereinabove, it is open to the respondents, after two week from today, to pass order afresh in accordance with law.

Both the Writ Appeal and the Writ Petition are disposed of accordingly. The miscellaneous petitions pending, if any, shall stand dismissed. There shall be no order as to costs.

RAMESH RANGANATHAN, ACJ

A.SHANKAR NARAYANA, J

Date: 24.10.2016

Note: Issue CC in one week.

B/o

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